

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

DARIUS HARRIS,

Plaintiff,

v.

DENNIS LARSON, et al.,

Defendants.

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Case No. 3:15-cv-252-NJR-DGW

ORDER

WILKERSON, Magistrate Judge:

Now pending before the Court is Motion to Compel Independent Medical Examination of Plaintiff filed by Plaintiff, Darius Harris, on December 22, 2016 (Doc. 140). The Motion is **DENIED WITHOUT PREJUDICE.**

Plaintiff seeks an examination of the broken finger in addition to medical care. As Defendants point out, it is unclear under what legal theory Plaintiff is seeking relief, whether pursuant to Federal Rule of Civil Procedure 35 or 65 (for preliminary injunctive relief). To the extent that Plaintiff seeks a Rule 35 examination, the Rule provides that the Court may order a party to submit to a physical examination if that party's medical condition is in dispute. Plaintiff seeks such an examination in order to establish is current medical state and for additional medical treatment. Rule 35 does not authorize the Court to appoint a medical expert, at Plaintiff's request, to examine the Plaintiff himself; rather, the Rule allows the Court to direct an opposing party to make himself available for examination. If Plaintiff seeks medical care outside the prison, he must locate and retain an appropriate health professional (at his own cost) and coordinate his consultation with that health professional and with prison officials.

The Court declines to analyze Plaintiff's claim under the lens of Rule 65. If Plaintiff seeks

preliminary injunctive relief with respect to his finger, he must file the appropriate motion.

For the foregoing reasons, the Motion to Compel Independent Medical Examination of Plaintiff filed by Plaintiff on December 22, 2016 (Doc. 140) is **DENIED WITHOUT PREJUDICE.**

DATED: May 9, 2017



DONALD G. WILKERSON
United States Magistrate Judge